

October 13, 2005

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 13th day of October 2005, at 8:00 P.M., and there were

PRESENT:           JOHN ABRAHAM, JR. MEMBER  
                         WILLIAM MARYNIEWSKI, MEMBER  
                         RICHARD QUINN, MEMBER  
                         ARLIE SCHWAN, MEMBER  
                         ROBERT THILL, MEMBER  
                         JEFFREY LEHRBACH, CHAIRMAN

ABSENT:            ANTHONY ESPOSITO, MEMBER

ALSO PRESENT:    JOHANNA M. COLEMAN, TOWN CLERK  
                         JEFFREY SIMME, BUILDING INSPECTOR  
                         JOHN DUDZIAK, DEPUTY TOWN ATTORNEY

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

**PETITION OF 81 & 3 OF FLORIDA, INC.**

The Zoning Board of Appeals will render findings and a determination of the following variance petition.

THE 1st CASE TO BE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of 81 & 3 of Florida, Inc., 6495 Transit Road, Bowmansville (Town of Lancaster), New York for one variance from the requirements of Chapter 50, Zoning, Section 19B.(2)(e) of the Code of the Town of Lancaster on property owned by the petitioner at the northeast corner of Transit Road and the RJ Corman Railroad Line. This property is identified on the tax map of the Town of Lancaster as Section Block Lot Nos. 82.03-3-25 and 82.03-3-27.

The Clerk presented a copy of a letter dated October 13, 2005 from the petitioner requesting that the Board reserve decision on this matter until their next meeting to be held on November 10, 2005.

A discussion regarding the petitioner's request to reserve decision and discussion regarding the requested variance ensued.

A motion was made by Mr. Lehrbach to postpone the decision until the next meeting. There was no second to the motion.

The petition was withdrawn by the petitioner.

**PETITION OF RONALD & ANN VANYO:**

THE 2nd CASE TO BE HEARD BY THE ZONING Board of Appeals was that of the petition of Ronald and Ann Vanyo, 1 Park Walk, Lancaster, New York 14086 for two [2] variances for the purpose of constructing a storage shed and for permitting a gazebo to remain in its current location on property owned by the petitioners at 1 Park Walk, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Park Walk with an exterior side yard [considered a front yard equivalent] fronting on Village View.

The petitioners propose to construct a storage shed at the southwest corner of Village View within the required front yard. The storage shed is to be situated eight feet [8'] north of the south property line along Village View.

Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster requires a thirty five foot [35'] south exterior property line set back on Village View. The petitioners, therefore, request a twenty seven foot [27'] south exterior property line set back variance.

- B. The petitioners request that a gazebo which currently extends into the south exterior side yard be permitted to remain in that location.

Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster requires that no structure is to be placed in a required front yard. The petitioners, therefore, request a variance to allow the gazebo to remain as it is currently positioned.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Ronald Vanyo, petitioner  
1 Park Walk  
Lancaster, New York 14086

Proponent

Kerry Congilosi  
229 Dean Road  
Cheektowaga, New York 14225

Proponent

**IN THE MATTER OF THE PETITION OF RONALD & ANN VANYO**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. QUINN, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. SCHWANN  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Ronald and Ann Vanyo and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of October 2005, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicants are the present owners of the premises in question.

That the property for which the applicants are petitioning is within a Residential District 1, (R1) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 1, (R1) as specified in Chapter 50 of the Code of the Town of Lancaster.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the relief sought be and is hereby **GRANTED** -subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- Addition of conifer trees subject to approval of Building Inspector.
- Conifers to be at least eight feet [8'] tall upon planting.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. ESPOSITO	WAS ABSENT
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED NO
MR. LEHRBACH	VOTED YES

The resolution granting the variances was thereupon **ADOPTED.**

October 13, 2005

**PETITION OF ANTHONY & ELLEN SIRIANNI:**

THE 3rd CASE TO BE HEARD BY THE ZONING Board of Appeals was that of the petition of Anthony and Ellen Sirianni, 64 Old Post Road, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a six [6] foot high fence in a required open space area on premises owned by the petitioners at 64 Old Post Road, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Old Post Road with an exterior side yard [considered a front yard equivalent] fronting on Willow Ridge Lane. The petitioners propose to erect a six [6] foot high fence within the required open space area of the exterior side yard fronting on Willow Ridge Lane.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard or an exterior side yard [considered a front yard equivalent] to three [3] feet in height. The petitioners, therefore, request a three [3] foot fence height variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Anthony Sirianni, petitioner  
64 Old Post Road  
Lancaster, New York 14086

Proponent

**IN THE MATTER OF THE PETITION OF ANTHONY & ELLEN SIRIANNI**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. ABRAHAM  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Anthony and Ellen Sirianni and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of October 2005, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicants are the present owners of the premises in question.

That the property for which the applicants are petitioning is within a Residential District 1, (R1) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 1, (R1) as specified in Chapter 50 of the Code of the Town of Lancaster.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought, noting there are numerous fences in the neighborhood.

That the privacy sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial; the fact that the fence will be 22 feet from the sidewalk serves to mitigate the variance request.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

That such fence will not unduly shut out light or air to adjoining properties.

That such fence will not create a fire hazard by reason of its construction or location.

**NOW, THEREFORE, BE IT  
RESOLVED** that based upon these findings, the relief sought be and is hereby  
**GRANTED.**

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. ESPOSITO	WAS ABSENT
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED.**

October 13, 2005



**PETITION OF ADAM MATUSZEWSKI:**

THE 4th CASE TO BE HEARD BY THE ZONING Board of Appeals was that of the petition of Adam Matuszewski, 676 Townline Road, Lancaster, New York 14086 for two [2] variances for the purpose of constructing a 1,500 square foot pole barn on premises owned by the petitioner at 676 Townline Road, Lancaster New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster. The area of the proposed pole barn is 1,500 square feet.

Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster limits the area of an accessory structure to 750 square feet. The petitioner, therefore, requests a 750 square foot accessory use area variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 9D.(2) of the Code of the Town of Lancaster. The height of the proposed pole barn is eighteen [18] feet.

Chapter 50, Zoning, Section 9D.(2) of the Code of the Town of Lancaster limits the height of accessory structures to sixteen [16] feet. The petitioner, therefore, requests a two [2] foot height variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Planning of the time and place of this public hearing.

Copy of a letter notifying the Town of Alden of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Adam Matuszewski, petitioner  
676 Townline Road  
Lancaster, New York 14086

Proponent

Leslie Climenhaga  
119 William Kidder Road  
Lancaster, New York 14086

Opponent

**IN THE MATTER OF THE PETITION OF ADAM D. MATUSZEWSKI**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. ABRAHAM  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Adam D. Matuszewski and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of October 2005, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within a Agricultural Residential District, (AR) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Agricultural Residential District, (AR) as specified in Chapter 50 of the Code of the Town of Lancaster.

That the Erie County Division of Planning commented on the proposed zoning action as follows:

"No recommendation; proposed action has been received and determined to be of local concern."

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought; any impacts will be mitigated by a reduction in size of the structure and the choice of colors.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the relief sought be and is hereby **GRANTED** -subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- Pole barn not to exceed 1,200 square feet.
- Colors: green roof, beige sides, green wainscoating.
- That no commercial enterprise, other than those permitted by Chapter 50 of the Code of the Town of Lancaster, be conducted on the premises.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. ESPOSITO	WAS ABSENT
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED NO

The resolution granting the variances was thereupon **ADOPTED**.

October 13, 2005

**PETITION OF NORMAN & CAROL LOOS:**

THE 5th CASE TO BE HEARD BY THE ZONING Board of Appeals was that of the petition of Norman and Carol Loos, 672 Townline Road, Lancaster, New York 14086 for two [2] variances for the purpose of constructing a 1,500 square foot pole barn on premises owned by the petitioners at 672 Townline Road, Lancaster New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster. The area of the proposed pole barn is 1,500 square feet.

Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster limits the area of an accessory structure to 750 square feet. The petitioners, therefore, request a 750 square foot accessory use area variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 9D.(2) of the Code of the Town of Lancaster. The height of the proposed pole barn is eighteen [18] feet.

Chapter 50, Zoning, Section 9D.(2) of the Code of the Town of Lancaster limits the height of accessory structures to sixteen [16] feet. The petitioners, therefore, request a two [2] foot height variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Planning of the time and place of this public hearing.

Copy of a letter notifying Town of Alden of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Norman Loos, petitioner 672 Townline Road Lancaster, New York 14086	Proponent
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Carol Loos, petitioner 672 Townline Road Lancaster, New York 14086	Proponent
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Matthew Braun 302 Olmstead Avenue Depew, New York 14043	Comments
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**IN THE MATTER OF THE PETITION OF NORMAN & CAROL LOOS**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. QUINN  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Norman and Carol Loos and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of October 2005, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**NOW, THEREFORE, BE IT  
RESOLVED** that this hearing be adjourned to allow for further testimony and evidence to be presented.

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within an Agricultural Residential District, (AR) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Agricultural Residential District, (AR) as specified in Chapter 50 of the Code of the Town of Lancaster.

That the Erie County Division of Planning commented on the proposed zoning action as follows:

"No recommendation; proposed action has been received and determined to be of local concern."

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought. This is a rural neighborhood with accessory structures.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the relief sought be and is hereby **GRANTED** -subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- Colors: burgundy roof, grey siding, burgundy wainscoating.
- That no commercial enterprise, other than those permitted by Chapter 50 of the Code of the Town of Lancaster, be conducted on the premises.
- Trees to be added to the southwest area to assist in screening at the discretion of the Building Inspector.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. ESPOSITO	WAS ABSENT
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED NO

The resolution granting the variances was thereupon **ADOPTED**.

October 13, 2005

**PETITION OF NORMAN R. DISCHNER:**

THE 6th CASE TO BE HEARD BY THE ZONING Board of Appeals was that of the petition of Norman R. Dischner, 11 Apple Blossom Boulevard, Lancaster, New York for one [1] variance for the purpose of permitting a fence to remain as positioned on premises owned by the petitioner at 11 Apple Blossom Boulevard, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35A. of the Code of the Town of Lancaster. The height of the fence above grade along both side yard property lines ranges from six [6'] feet to six feet eight inches [6',8"].

Chapter 50, Zoning, Section 35A of the Code of the Town of Lancaster limits the height of a fence above grade in a residential district rear side yard to six [6'] feet. The petitioner, therefore, requests a variance of eight inches [8"].

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Norman Dischner, petitioner  
11 Apple Blossom Boulevard  
Lancaster, New York 14086

Proponent

Anthony Annunziato  
10 Apple Blossom Boulevard  
Lancaster, New York 14086

Proponent

**IN THE MATTER OF THE PETITION OF NORMAN DISCHNER**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. MARYNIEWSKI  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Norman Dischner and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of October 2005, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within a Residential District 1, (R1) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 1, (R1) as specified in Chapter 50 of the Code of the Town of Lancaster.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought. It would cost several thousand dollars to adjust the fence.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty although self created, was unintentional and should not preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

That such fence will not unduly shut out light or air to adjoining properties.

That such fence will not create a fire hazard by reason of its construction or location.



**NOW, THEREFORE, BE IT  
RESOLVED** that based upon these findings, the relief sought be and is hereby  
**GRANTED.**

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

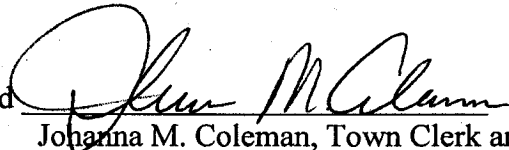
MR. ABRAHAM	VOTED YES
MR. ESPOSITO	WAS ABSENT
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED.**

October 13, 2005

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 9:48 P.M.

Signed

A handwritten signature in cursive script, appearing to read "Johanna M. Coleman", written over a horizontal line.

Johanna M. Coleman, Town Clerk and  
Clerk, Zoning Board of Appeals

Dated: October 13, 2005